

REMARKS

This paper is filed in response to the Office Action mailed May 30, 2007.

Claims 1-13, 16-23, and 26-32 are pending in this application. Claims 19-28 stand rejected under 35 U.S.C. § 101 as being directed to non-patentable subject matter. Claims 1-3, 5-17, and 19-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,880,411 to Gillespie et al (“Gillespie”). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of U.S. Patent Publication No. 2003/0063073 to Geaghan et al (“Geaghan”). Claims 18 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of U.S. Patent No. 6,118,435 to Fujita et al (“Fujita”). Paragraph 20 of the specification was objected to for being confusing and awkward.

Applicant has cancelled claims 14, 15, 24, and 25. Applicant has amended claims 1-6, 19, 20, and 26, and added new claims 29-32. No new matter is added by these amendments or new claims, and support may be found in the specification and claims as originally filed.

Reconsideration and allowance of all claims is respectfully requested in light of the amendments above and the remarks below.

I. § 101 – Claims 19-28

Applicant respectfully traverses the rejection of claims 19-28 under 35 U.S.C. § 101 as being directed to unpatentable subject matter.

The Examiner asserts that the term ‘computer-readable medium’ includes signals, which are believed to be unpatentable by the U.S. Patent and Trademark Office. Applicant respectfully disagrees with the assertion that signals are non-statutory.

Applicant has cancelled claims 24 and 25 rendering the rejection of those claims moot.

Patentable subject matter under 35 U.S.C. § 101 includes “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” Further, the U.S. Supreme Court has found that “Congress intended statutory subject matter to ‘include anything under the sun that is made by

man.”” *Diamond v. Chakrabarty*, 447 U.S. 303, 309 (1980). But rather than enumerate a list of what is patentable, the court instead listed what is not patentable: “[t]he laws of nature, physical phenomena, and abstract ideas.” The signals encompassed by the claims of the present invention are not laws of nature, physical phenomena, or abstract ideas. Rather, signals are articles of manufacture. The signals claimed are artificially-created waveforms, i.e. made by man, carrying specifically-defined and encoded information. Further, the utility of signals as computer-readable media is well-known and acknowledged by the United States Patent and Trademark Office: “a computer is able to execute the encoded functions, regardless of whether the format is a disk or a signal.” 2005 Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, Annex 4, November 22, 2005.

Because signals represent statutory articles of manufacture, the rejection under 35 U.S.C. § 101 is improper. Applicant respectfully requests the Examiner withdraw the rejection of claims 19-28.

II. § 102(b) – Gillespie – Claims 1-3, 5-17, and 19-27

Applicant respectfully traverses the rejection of claims 1-3, 5-17, and 19-27 under 35 U.S.C. § 102(b) as being anticipated by Gillespie.

To anticipate a claim under 35 U.S.C. § 102(b), a reference must disclose each and every element of the claimed invention. *See* M.P.E.P. § 2131.

Applicant has cancelled claims 14, 15, 24, and 25 rendering the rejection of those claims moot.

Because Gillespie does not disclose “outputting a press signal if the velocity is less than the velocity threshold” as recited in amended claim 1, Gillespie does not anticipate claim 1. The Office Action cites column 36, lines 26-47 to show that movement at a velocity below a threshold may be detected as a press event. *See* Office Action, p. 5. However, Gillespie does not disclose the detection of a press when a movement is at a velocity below a threshold. Rather, Gillespie discloses determining when a user attempts to perform a drag gesture using a touch pad. Gillespie discloses that an extended drag gesture may be detected by a quick liftoff of a finger from a surface. The velocity of the finger’s movement across the pad is then determined, and if

the velocity is greater than a threshold, an extended drag gesture is detected. Gillespie further discloses that movements over a short distance will be detected as a press, and not a drag gesture. In other words, Gillespie teaches that a finger must move at least some minimal distance, and that the velocity of that movement must be greater than a threshold in order for an extended drag to be detected. However, Gillespie does not teach that a low velocity movement, i.e. below a velocity threshold, may be detected as a press. Therefore, Gillespie does not anticipate claim 1. Applicant respectfully requests the Examiner withdraw the rejection of claim 1.

Similar to claim 1, amended claim 19 recites “program code for outputting a press signal if the velocity is less than the velocity threshold.” Gillespie does not anticipate claim 19 for at least the same reasons that Gillespie does not anticipate claim 1. Applicant respectfully requests the Examiner withdraw the rejection of claim 19.

Because claims 2, 3, 5-17, and 20-27 depend from and further limit claims 1 and 19, claims 2, 3, 5-17, and 20-27 are patentable over Gillespie for at least the same reasons. Applicant respectfully requests the Examiner withdraw the rejection of claims 2, 3, 5-17, and 20-27.

III. § 103(a) – Gillespie in view of Geaghan – Claim 4

Applicant respectfully traverses the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Geaghan.

To reject a claim under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. *See* M.P.E.P. § 2143.03.

Because Gillespie in view of Geaghan does not teach or suggest “outputting a press signal if the velocity is less than the velocity threshold” as recited in amended claim 1, from which claim 4 depends, claim 4 is patentable over the combined references. As discussed above, Gillespie does not teach or suggest the recited claim element. Further, Geaghan does not cure this deficiency.

Geaghan was cited for teaching an adjustable pressure threshold. However, this does not teach or suggest “outputting a press signal if the velocity is less than the velocity threshold” as recited in amended claim 1, from which claim 4 depends. Thus, claim 4 is

patentable over Gillespie in view of Geaghan. Applicant respectfully requests the Examiner withdraw the rejection of claim 4.

IV. § 103(a) – Gillespie in view of Fujita – Claims 18 and 28

Applicant respectfully traverses the rejection of claims 18 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Fujita.

To reject a claim under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. *See* M.P.E.P. § 2143.03.

Because Gillespie in view of Fujita does not teach or suggest “outputting a press signal if the velocity is less than the velocity threshold” as recited in amended claim 1, from which claim 18 depends, claim 18 is patentable over the combined references. As discussed above, Gillespie does not teach or suggest the recited claim element. Further, Fujita does not cure this deficiency.

Fujita was cited for teaching the use of haptic effects. However, this does not teach or suggest “outputting a press signal if the velocity is less than the velocity threshold” as recited in amended claim 1, from which claim 18 depends. Thus, claim 18 is patentable over Gillespie in view of Fujita. Applicant respectfully requests the Examiner withdraw the rejection of claim 18.

Similar to claim 1, amended claim 19, from which claim 28 depends, recites “program code for outputting a press signal if the velocity is less than the velocity threshold.” Claim 28 is patentable over Gillespie in view of Fujita for at least the same reasons as claim 18. Applicant respectfully requests the Examiner withdraw the rejection of claim 28

V. Objection to the Specification

The following portion of the specification was objected to for being confusing and awkward as computer-readable media allegedly do not have any transmit capability:

“various other forms of computer-readable media may transmit or carry instructions to a computer, including a router, private or public network, or other transmission device or channel, both wired and wireless” Office Action, p. 2.

Respectfully, computer-readable media may have the ability to transmit. For example, various solid-state memory devices, including ROM (including devices such as EPROMs and EEPROMs), RAM, and ASICs include the capability to transmit data stored within their memory portions. Each of these devices is a computer-readable media, and each has transmit capability. Further, the devices recited in the quoted portion of the specification are known to include computer-readable media, such as, without limitation, RAM, ROM, and/or ASIC devices. As such, the quoted portion of the specification is clear and accurate. Applicant respectfully requests the Examiner withdraw the objection to the specification.

CONCLUSION

Applicant respectfully asserts that in view of the amendments and remarks above, all pending claims are allowable and Applicant respectfully requests the allowance of all claims.

Should the Examiner have any comments, questions, or suggestions of a nature necessary to expedite the prosecution of the application, or to place the case in condition for allowance, the Examiner is courteously requested to telephone the undersigned at the number listed below.

Respectfully submitted,

Date: August 30, 2007

/ Carl Sanders /

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